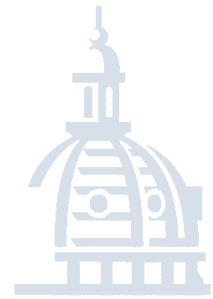


Fiscal Note

Fiscal Services Division



HF 2421 – Prevailing Wage (LSB1573HV)

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Fiscal Note Version – New

Description

House File 2421 requires a contractor to pay workers the same hourly wage plus fringe benefits for a public improvement as the contractor would pay workers for a private construction or improvement project. The Bill allows the hourly wage rate to be based on what is normally paid in the area by contractors for similar projects, and to be adjusted on an annual basis by the Iowa Department of Workforce Development (IWD). Contractors are prohibited from paying less than the established prevailing wage. The Bill also requires contractors to provide certain fringe benefits such as health insurance, retirement benefits, and costs of apprenticeship programs. Contractors cannot include deductions for food, sleeping quarters, use of tools, or safety equipment. The Bill includes a project threshold of \$100,000 before prevailing wage is required.

The Bill allows a political subdivision to choose not to require prevailing wage rates to be paid for a particular public improvement by adopting a resolution. Notice of such a resolution must be posted prior to letting a public improvement for bids.

The Iowa Labor Commissioner determines the wage rates for specific geographical areas and for specific crafts, classifications, and types of workers. This information must be posted on the IWD website. In determining the wage rate for a worker, the Commissioner may consult collective bargaining agreements, wage rate determinations for federal projects in the same area, and other information the IWD receives from contractors that participate in an apprenticeship program approved by the Federal Bureau of Apprenticeship and Training. The wage rate must be included in all bids on public projects, and the bid must include the wage rate to be paid for each craft, classification, and type of worker.

The Bill establishes an administrative process for appeal of the IWD established prevailing wage. Appeal of a decision by the IWD will be heard by an Administrative Law Judge of the Department of Inspections and Appeals and is subject to Judicial Review. The Bill also creates a serious misdemeanor for attempting to force a worker to give up any portion of the compensation received for a public improvement project by threatening not to hire, or terminate employment of, the worker.

Contractors and subcontractors are required to retain accurate records of all workers employed on a public improvement project. Contractors are also required to post the wage rates for each type of worker at an accessible location at the site of a public improvement. Additionally, the Bill establishes fines and creates a new serious misdemeanor for contractors and subcontractors not complying with the requirements of the Bill.

The Bill allows the Commissioner to adopt emergency rules to implement the Bill and specifies the Commissioner may use the federal Davis-Bacon Act rates until the determination of prevailing wage rates is accomplished.

Assumptions

Correctional and Fiscal Information

- This Bill could potentially affect the salaries paid to construction workers on most public projects. While the exact dollar amount is not known, it could cost the State, local governments, and school districts 5.0% - 20.0% more for labor costs on construction projects. If a city, county or school board elects to opt out of paying the prevailing wage on a project there would be no increase in project cost related to prevailing requirements. This range was developed based on the information provided by the following entities:

Entity Reporting	Estimated increase in labor or project costs
Iowa State Association of Counties	Could not estimate this year, but had estimated 10.0% - 20.0% increase in project costs in past years.
Board of Regents)	10.0% increase in project costs.
Iowa Association of School Boards	Could not estimate this year, but had estimated 10.0% increase in labor costs in past years.
Department of Transportation	1.0% increase on federal aid projects and 5.0% on nonfederal aid projects,
Dept. of Administrative Services	Did not submit an estimate.
Community Colleges	Did not submit an estimate
League of Cities	Did not submit an estimate.

- Typically, labor comprises 25.0% – 40.0% of construction contracts. If the total project cost was \$100,000 and of that amount, labor costs \$25,000, and prevailing wage increased the labor costs 5.0% -20.0% (\$1,250 - \$5,000), this would result in an increased contract cost of 1.25% - 5.0%.
- A review of studies in other states indicates a wide variation in estimated labor cost increases, ranging from no effect (Indiana study 1990) to an increase in costs of 20.0% (Kentucky study 2006). The Congressional Budget Office has estimated that the repeal of the Davis-Bacon Act would save an estimated 1.7% in construction costs.
- The IWD estimates a need for 3.5 FTE positions to administer the requirements of the prevailing wage law. The IWD estimates an additional cost to the General Fund of \$467,000 in FY 2011 and \$357,000 in FY 2012. Of this total cost, salaries are estimated at \$232,000 for FY 2011 and FY 2012.
- The Board of Regents estimates a need for \$315,000 and 3.0 FTE positions (one at each University) for FY 2011 and \$313,000 in FY 2012 to administer the provisions of this Bill. Of that amount the State General Fund share would vary by University from 40.8% at the University of Iowa to 53.8% at the University of Northern Iowa. At 45.0% the cost to the State General Fund would be \$142,000 in FY2011 and \$141,000 in FY 2012 with most of the remaining costs paid for with tuition funds.
- The Department of Transportation estimates a need for 3.5 FTE positions for a cost to the Road Use Tax Fund of \$275,000 for salary and support in FY2011 and FY 2012.
- Other Departments may have need of additional staff, but did not report.
- There would be minimal appeals of the prevailing wage determined by IWD for a project. Surrounding states have had only one or two per year resulting in minimal costs.

- All government bodies involved with a public improvement project will monitor the project to ensure that the prevailing wage is being paid, and that contractors and subcontractors are meeting all the requirements of the Bill.
- It is not possible to determine the number of political subdivisions that would use the opt-out provision established in the Bill or the number of projects that would not have to pay the prevailing wage.
- Construction wages for projects, especially in rural areas, will likely increase due to the Bill. Studies indicate that urban areas experience smaller impacts than rural areas.
- Wage increases will also result in an increase in income tax and sales tax.
- The annual number of vertical infrastructure projects is approximately 1,000 and the number of civil road, building, and utility projects approximately 2,000.
- Contractor and subcontractor costs will increase due to the amount of reporting and maintenance of records required under the Bill.
- According to the University of Missouri-Kansas City, only 55.0% of workers in the construction industry have access to health insurance. The IWD data shows that approximately 69,000 Iowans are employed in construction, with approximately 31,000 potentially without access to insurance.
- The Bill takes effect on enactment and due to the normal lag in the time it takes to hire staff it is unlikely that Departments would have expenses in FY 2010.
- The Bill provides language that notwithstanding Code Section 25B.3 and effectively nullifies the application of a State mandate.

Summary of Impacts

Correctional Impact: The average State cost for one serious misdemeanor conviction ranges from \$200 (court costs) to \$7,900 (court costs including a jury, indigent defense, and prison). The maximum costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community. According to the Missouri Department of Labor and Industrial Relations in FY 2009 there were 2,265 public projects reported to the Department with a total of 315 complaints and only 126 founded violations. Multiple complaints and findings may have been against the same contractor or subcontractor, but that information was not available. Additionally, only one project had significant enough violations to warrant legal action to bar the contractor from participating in public projects. It is unknown how many contractors and subcontractors will violate Iowa's law.

Fiscal Impact

Total cost to the State General Fund is estimated at \$609,000 in FY 2011 and \$498,000 in FY 2012 to fund costs estimated by the IWD and the Board of Regents. Other potential costs, revenues, and savings are possible, but cannot be estimated. Specifics include:

- The current Bill does allow cities, counties and school boards to opt out of paying prevailing wage on a project however it is impossible to know if any will. In past years, construction cost estimates provided by the Iowa State Association of Counties, the Iowa Association of School Boards, the Department of Transportation and the Board of Regents indicated a median cost increase estimate of 5.0% to 20.0% for projects as a result of prevailing wage requirements. Studies from other States have shown a range from no impact to a 20.0% increase. The LSA does not have copies of the contracts and therefore cannot identify the wage rates paid on the various contracts, so no analysis has been conducted to determine the likely actual cost increases.
- All public entities with a public improvement project (unless officially opting out of requiring prevailing wage rates) will have related costs of monitoring contractor and subcontractor wage payments and other required activities. Some may be able to absorb these with

current staff. However, if multiple projects are in process by a public body, additional staff may be required.

- In 2007 the Master Builders of Iowa estimated that for each public contract the administrative costs to the contractors and subcontractors would be approximately \$17,000. For contractors that participate in contracts covered by the Davis-Bacon Act, the increased amount may be less as similar record keeping is already required and they would have the process already in place to handle it. This may result in a need for additional staff for some contractors.
- The increase to income tax and sales tax receipts due to increased wages cannot be estimated.
- If Iowans working in the construction industry receive health insurance because of working on a project requiring prevailing wage, or decide to purchase health insurance, the State may see some savings in the cost of providing services to the uninsured.

Sources

Department of Workforce Development
Department of Inspections and Appeals
Department of Education
Board of Regents
Iowa State Association of Counties
Department of Public Safety
Department of Administrative Services
Iowa State Association of School Boards
Department of Corrections
Department of Transportation
Criminal and Juvenile Justice Planning Division
University of Missouri-Kansas City
Iowa Association of Community College Trustees

/s/ Holly M. Lyons

February 24, 2010

The fiscal note for this bill was prepared pursuant to Joint Rule 17 and the correctional and minority impact statements were prepared pursuant to Code Section 2.56. Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
